

EXHIBIT 3



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February 25, 2019

Via Email and First Class Mail

Jeffrey S. Robins
Deputy Director
U.S. Department of Justice, Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868, Ben Franklin Station
Washington, DC 20044

Re: *Texas, et al. v. USA, et al.*, Index No. 1:18-cv-00068
United States District Court, Southern District of Texas:
Federal Defendants' Production of the Administrative Record

Dear Mr. Robins:

We write to inquire about the Federal Defendants' promised production of the "administrative record."

In the Joint Discovery filing dated October 31, 2018 (Dkt. 335), the Federal Defendants repeatedly stated: "Federal Defendants anticipate serving an administrative record on the parties within 30-days of entry of a scheduling order." (*Id.* at 4, 10.) The Court entered the scheduling order on November 14, 2018 (Dkt. 337 and minute order¹). Thus, the Federal Defendants should have provided the administrative record to the parties by December 14, 2018.

On December 14, 2018, you wrote an email to counsel: "Unfortunately Federal Defendants will not be serving initial disclosures today. I intend to send them out on Monday [December 17, 2018] followed by production of an administrative record soon thereafter." On December 17, 2018, the Federal Defendants served their initial disclosures, which referenced a future production

¹ The minute order for Dkt. 337 states: "Minute Entry for proceedings held before Magistrate Judge Frances H Stacy. SCHEDULING CONFERENCE held on 11/14/2018. Scheduling/ Docket Control Order issued." The following minute order on November 14, 2018 on the docket states the deadlines.



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of “the administrative record regarding the creation of DACA.” (Federal Defendants’ Initial Disclosures at 2). But the Federal Defendants have yet to produce that promised administrative record.

The partial shutdown of the federal government began on December 22, 2018. On December 26, 2018, in response to a deficiency letter from counsel for the Perez Defendant-Intervenors regarding the third set of discovery requests, you wrote to counsel in an email: “Federal Defendants are in receipt of this letter. Please note that any response will unfortunately be delayed due to the current lapse in appropriations, as will Federal Defendants production of an administrative record.”

The government shut down ended on January 25, 2019. But the promised administrative record still has yet to be provided. Please promptly advise us of the status of that production.

Notwithstanding the above, the State of New Jersey and the Perez Defendant-Intervenors continue to dispute Federal Defendants’ claim that discovery should be limited to review of a purported administrative record. Nothing herein should be construed to limit any of their rights to seek additional discovery, to challenge the sufficiency of any purported administrative record produced by the Federal Defendants, or to challenge whether the information produced amounts to an administrative record.

Sincerely,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By:  _____
Jeremy E. Hollander
Assistant Attorney General

cc (via email): All lead counsel of record